IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

Crl.Revision No. 492 of 1993
Date of Decision: 18.7.2007

Khazan Singh and others.

..... Petitioners through
Shri Bipan Ghai, Advocate.

Versus

State of Punjab.

..... Respondent through
Shri Mehardeep Singh,
Assistant Advocate General,
Punjab.

CORAM: HON'BLE MR.JUSTICE MAHESH GROVER

....

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

....

Mahesh Grover,J.

This revision petition has been directed against judgment dated 24.7.1993 of the Additional Sessions Judge, Amritsar vide which the appeal of the petitioners preferred against judgment dated 29.4.1992 passed by the Judicial Magistrate Ist Class, Tarn Taran was dismissed.

In the instant case, the incident is said to have taken place on 18.11.1986 at about 6.30 P.M. when complainant- Tara Singh was standing in front of his house and his son-Karnail Singh and wife-Pritam Kaur were also present. At that time, Khazan Singh, armed with kirpan, Sukhdev

Singh, and Jagtar Singh, armed with dangs, Gokha Singh, armed with a gandasa (all the petitioners herein) along with Banta Singh (the alleged accomplice of the petitioners), who was empty handed, came there and attacked the complainant giving him the following injuries in the process:-

> "(1) An incised wound 2.5 cm. x 0.5 cm. on the front of the right leg in its lower one third. The wound was bone deep and bleeding. The underlying bone was cut.
>
> (2)A contusion 5 cm. X 2.5 cm. vertically oblique, reddish in colour on the dorsum aspect of the right fore-arm in its middle one third.
>
> (3)A lacerated wound 5 cm. X .25 cm. was present on the lateral aspect of the left fore-arm in its lower 1/3rd. The wound was subcutaneous tissue deeply.
>
> (4) A reddish contusion 6 cm. X 1.5 cm. on the right scapular region 1 cm. below the angle of scapula.
>
> (5) A swelling 5 cm. X 4 cm. on the right back 2 cm. Below the inferior angle of the right scapula. Crepes was heard over the 9th and 10th rib in the corresponding area."

When the wife of the complainant tried to rescue him, she was also given the following injuries:-

> "1. A reddish contusion 13 cm. X 3 cm. horizontal in direction on the top of the left shoulder and upper 1/3rd of left upper arm.
>
> 2. An incised would 6 cm x 15 cm on the top of the left shoulder. The wound was skin deep."

The reason leading to the said incident was a dispute regarding a passage.

The police, after completing the investigation, submitted a challan against petitoners- Gokha Singh, Sukhdev Singh, Jagtar Singh and one Banta Singh. Since Petitioner- Khazan Singh was not challaned by the police, he was summoned by the trial Court under Section 319 of the Cr.P.C. and thereafter, all of them were charge sheeted for having committed offences punishable under Sections 326, 325, 324, 323, 148 and 149 of the I.P.C. They pleaded not guilty and claimed trial.

The trial Court, on appraisal of material before it, acquitted Banta Singh, whereas it convicted and sentenced the petitioners as under:-

1. Petitioner-Khazan Singh

(a) To undergo one year rigorous imprisonment and a fine of Rs.1000/- and in default of payment of fine, to further undergo rigorous imprisonment of three months for the offence punishable under Section 326 of the I.P.C.

(b) To undergo rigorous imprisonment for six months for offence punishable under Section 325/149 of the I.P.C.

(c) To undergo three months rigorous imprisonment for offence under Section 323/149 of the I.P.C.

(d) To undergo rigorous imprisonment for three months for the offence punishable under Section 148 of the I.P.C.

Petitioner-Gokha Singh

(a) To undergo rigorous imprisonment for one year and to pay

fine of Rs.1000/- and in default of payment of fine, to further rigorous imprisonment of three months for an offence punishable under Section 326/149 of the I.P.C.

(b) To undergo rigorous imprisonment for six months for offence punishable under Section 325 of the I.P.C.

(c) To undergo three months rigorous imprisonment for offence under Section 323/149 of the I.P.C.

(d) To undergo rigorous imprisonment for three months for the offence punishable under Section 148 of the I.P.C.

Petitioners-Sukhdev Singh alias Sukha and Jagtar Singh.

(a) To undergo rigorous imprisonment for one year and to pay fine of Rs.1000/- each and in default of payment of fine, to further rigorous imprisonment for three months for an offence punishable under Section 326/149 of the I.P.C.

(b) To undergo rigorous imprisonment for six months for offence punishable under Section 325/149 of the I.P.C.

(c) To undergo three months rigorous imprisonment for offence under Section 323 of the I.P.C.

(d) To undergo rigorous imprisonment for three months for the offence punishable under section 148 of the I.P.C.

All the substantive sentences were, however, ordered to run concurrently.

As noticed above, the appeal filed by the petitioners against

their conviction and sentence was dismissed by the Additional Sessions Judge, Hisar.

In the present revision petition, learned counsel for the petitioner has contended at the out-set that the occurrence is of the year 1986 and that the petitioners have faced the agony of the criminal proceedings against them for the last about twenty one years. At the time of occurrence, petitioners – Khazan Singh, Gokha Singh, Sukhdev Singh and Jagtar Singh were aged 40, 18, 17 and 29 years, respectively and the complainant was about 60 years old. Now, it would be extremely harsh if the petitioners are required to undergo the remaining part of their sentence. That apart, it was contended that probably, the parties would have buried their hatchet by now and even the complainant would be very well advanced in years. Learned counsel also stated that the petitioners have not been involved in any other offence thereafter.

On the other hand, learned counsel appearing for the State controverted the contention of the learned counsel for the petitioners and submitted that the Courts below have rightly convicted and sentenced the petitioners.

I have heard the learned counsel for the parties and after perusing the record, I am of the considered opinion that the petitioners are not hardened criminals and it was over a trivial matter that the dispute erupted. Petitioner no.1 was aged 44 years, while petitioner nos. 2, 3 and 4 were aged 22, 23 and 21 years, respectively and all of them, by now, will be well advanced in age and well entrenched in life. The complainant himself

would be of a ripe age. The petitioners have faced the agony of criminal proceedings for the last about 21 years. The fact that the petitioners not being involved in any other criminal activity has not been denied by the counsel for the State.

Having regard to the aforesaid and in the interest of justice, I deem it appropriate to reduce the sentence awarded to the petitioners to that of already undergone subject to the condition that a sum of Rs.10,000/- each is deposited by them with the trial Court within a period of three months from today, which shall be payable as compensation to the complainant and his wife.

Accordingly, this revision petition is disposed of in the following terms:-

(i) The conviction of the petitioners shall remain intact.

(ii) The sentence of imprisonment awarded to them is reduced to that of already undergone and they are directed to deposit a sum of Rs.10,000/- each with the trial Court within three months from today, which shall be paid to the complainant and his wife in equal shares as compensation. On deposit of the amount by the petitioners, the same shall be disbursed to the complainant and his wife after due notice to them.

(iii) It is made clear that in the event of failure of the petitioners to deposit the above amount in the stipulated period, the sentence awarded to them shall endure and in such an eventuality, their bail bonds shall be cancelled and they shall

be required to undergo the remaining part of the imprisonment.

July 18,2007 **(Mahesh Grover)**
"SCM" **Judge**